

July 22, 1977

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

STATE EMPLOYEES' ASSOCIATION OF NEW
HAMPSHIRE, INC.

and

DEPARTMENT OF CORRECTIONS, MERRIMACK
COUNTY, NEW HAMPSHIRE

CASE NO. S-0327

77-20

APPEARANCES

Representing the State Employees' Association of New Hampshire, Inc.:

Richard E. Molan, Assistant Executive Director

Representing the Department of Corrections, Merrimack County.:

Peter J. Spaulding, Commissioner
Edna McKenna, Commissioner
Edmund A. Cox, Jr., Superintendent
Rodney E. Tenney, Coordinator

Witness:

Harold P. Massey, Captain
Walter O. Dow, Lieutenant

FINDINGS

1. February 15, 1977, the State Employees' Association of New Hampshire by its representative, Richard E. Molan, Assistant Executive Director, filed with the Public Employee Labor Relations Board a petition for certification with required signature cards attached for a proposed bargaining unit for the Department of Corrections, Merrimack County, New Hampshire. Petition stated agreement on the composition of the unit could not be reached by both parties.
2. February 18, 1977, Merrimack County Commission by its Chairman, Peter J. Spaulding, acknowledged receipt of the petition and submitted a list of persons occupying positions set forth in SEA's petition.
3. By letter dated February 23, 1977, Merrimack County Commission by its Chairman, Peter J. Spaulding filed an exception to the proposed bargaining unit stating that captains should be exempt as they exercised significant supervisory authority and discretion, (RSA 273-A:8, II).
4. Hearing on the petition was originally scheduled for March 28, 1977 at which time the County Commissioners requested and were granted permission to amend their exceptions to the proposed bargaining unit to include lieutenants, the rehabilitation coordinator and the secretary.

State Employees' Association representative, Richard E. Molan, objected to the request for amendment and verbally filed a motion for denial of the request. SEA's motion was denied and hearing rescheduled for May 6, 1977. May 6, 1977 hearing later postponed at the request of SEA as certain witnesses were unavailable for testimony on that date.

5. Hearing rescheduled for May 25, 1977 and again postponed at the request of the County Commissioners; witnesses unavailable.
6. Hearing scheduled and held on June 10, 1977 in Room 306, Legislative Office Building, Concord, New Hampshire. Oral testimony presented by representatives of both the County Commissioners and the State Employees' Association; witnesses, captain and lieutenant, heard and job descriptions presented in evidence.

PELRB considered all oral testimony presented and exhibits submitted in evidence and finds:

- (a) Testimony of the Captain was persuasive and all evidence indicated that the Captain does exercise substantial and discretionary supervisory authority and frequently acts for the Administrator of the correctional department.
- (b) The Rehabilitation Coordinator exercises no supervisory duties and definitely has a community of interest with the other correctional officers.
- (c) The Lieutenants, based on testimony, possess very limited supervisory discretion on infrequent occasions and perform correctional officer duties the majority of the time.
- (d) The Secretary does, in fact, have a confidential relationship in all matters to the correctional administrator.

DECISION & ORDER

The bargaining unit for the Merrimack County Department of Corrections shall include all correction officers, sergeants, lieutenants and the rehabilitation coordinator. Excluded from the bargaining unit shall be the captains and the secretary.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 22nd day of July, 1977.

Unanimous Board decision, June 10, 1977. Board Members present: Chairman Edward J. Haseltine, Richard H. Cummings, Edward L. Allman and James C. Anderson. Absent, Board Member, Joseph B. Moriarty.